

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ACEA M. MOSEY, as Public Administrator of the
Estate of MICHAEL A. PAGANO, JR.

Plaintiff

v.

UNITED STATES OF AMERICA

Defendant

ORDER
11-CV-977S

Before this Court is Plaintiff's Motion for Approval of Settlement (Docket No. 22) in this medical negligence case. Because this action is brought on behalf of an Estate, it cannot be settled without leave of this Court. See Local Rule 41(a)(2)(A).

This Court has considered Plaintiff's motion and the papers filed in support thereof and finds that no hearing is required. This Court finds that the proposed settlement is in the best interests of the estate and distributees. In so finding, this Court has considered: (1) the circumstances giving rise to the claim; (2) the nature and extent of the damages; (3) the terms of the settlement and amount of attorney's fees and other disbursements; (4) the circumstances of any other claims or settlement arising out of this same occurrence; and (5) the plaintiff's statement of why she believes this settlement is appropriate. See Local Rule 41(a)(2)(i)-(iv). Plaintiff's application will therefore be granted and this settlement approved.

ORDERED, that Plaintiff's Motion to Approve Settlement (Docket No. 22) is GRANTED; and it is further,

ORDERED, that all claims on behalf of the Estate of Michael A. Pagano, Jr. as against the defendant herein, be settled for the sum of one hundred fifty thousand (\$150,000) dollars; and it is further

ORDERED, that this settlement (including the terms and amount) shall be kept confidential, and shall not be disclosed by the parties or the parties' attorneys, other than to the parties' accountants, attorneys, insurers, estate planners, financial advisors, government authorities or such other individuals as may be mutually agreed to by prior written consent, or as required by law, and it is further,

ORDERED, that the sum of \$8,094.52 is approved as reimbursement of disbursements advanced by Brown Chiari LLP; and it is further

ORDERED, that attorneys' fees for Brown Chiari LLP are approved in the sum of \$35,476.37 and it is further

ORDERED, that the entire net settlement proceeds shall be allocated to the wrongful death cause of action alleged in Plaintiff's complaint; and it is further

ORDERED, that those proceeds allocated to the wrongful death cause of action may be distributed upon by Decree of the Erie County Surrogate's Court in accordance with its determination; and it is further

ORDERED, that Acea M. Mosey, Esq., as Public Administrator of the Estate of Michael A. Pagano, Jr., and her attorneys are hereby authorized and empowered to sign/execute all documents (including but not limited to settlement drafts, settlement agreement and releases, confidential general releases, and a stipulation of discontinuance) necessary to effectuate this settlement and release the defendant, its successors and assigns, agents, servants and employees,

as well as their attorneys and insurers, notwithstanding any restrictions placed upon their ability to do so by the Erie County Surrogate's Court; and it is further

ORDERED, that the Clerk of Court is directed to close this case.

s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court